

JUN 29 2006

Application No. 09/975,479  
Amendment dated June 29, 2006  
Reply to Final Office Action dated March 31, 2006

Docket No. 1232-4778

**REMARKS**

Applicants respectfully request reconsideration of this application in view of the following remarks.

**A. Status of the Claims**

Claims 1-19 are pending in this application. These claims were admitted to be novel over the prior art. However, these claims rejected pursuant to 35 U.S.C. §103(a) as allegedly being obvious over combinations of cited references. Specifically, claims 1-4, 9-13, 18 and 19 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,862,594 to Saulpaugh et al ("Saulpaugh") in view of U.S. Patent No. 6,426,946 to Sengodan ("Sengodan"). [3/31/06 Office Action at pp. 2-6]. Also, claims 5-8 and 14-17 were rejected pursuant to 35 U.S.C. § 103(a) as allegedly being unpatentable over "modified Saulpaugh" in view of U.S. Patent No. 6,708,171 to Waldo et al. ("Waldo"). [3/31/06 Office Action at pp. 6-8].

The phrase "modified Saulpaugh" is understood to refer to Saulpaugh in combination with Sengodan as asserted against claims 1-4, 9-13, 18 and 19. If something else was intended by the office action, appropriate clarification is requested.

**B. Claims 1-19 Are Patentably Distinct form Saulpaugh in combination with Sengodan alone or further in combination with Waldo**

Applicants respectfully traverse the rejections of claims 1-19. As set forth below, the cited references fail to teach, disclose or suggest all of the claim elements of these claims.

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Specifically, Applicants' claim 1 recites:

1. A communication terminal connected to, via a network, a service provider and to a look-up service that registers service objects defining services of the service provider, where the communication terminal uses the services of the service provider by using the service objects, the communication terminal comprising:

look-up service search means for searching the look-up service in the network;

determining means for determining whether said look-up service search means can search the look-up service;

first acquisition means for acquiring, if said determining means determines that said look-up service search means can search the look-up service, a desired service object transmitted from the searched look-up service by checking whether the desired service object is registered in the searched look-up service;

transmission request notification means for issuing, if said determining means determines that said look-up service search means cannot search the look-up service, a transmission request notification to the service provider in the network via the network in order to request the service provider to transmit a service object; and

second acquisition means for acquiring a desired service object transmitted from the service provider without involvement of the look-up service, the service object being transmitted from the service provider responsive to the transmission request notification issued by said transmission request notification means.

1. Saulpaugh Fails To Teach, Disclose Or Suggest The "Determining Means," "First Acquisition Means," "Transmission Request Notification Means," And "Second Acquisition Means" Of Applicant's Claim 1

Saulpaugh is directed to a method and apparatus to discover services using flexible search criteria. The office action contends that Saulpaugh discloses "Jini" architecture where "[s]ervices are found and resolved ... by a look-up service" that

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“maps interfaces indicating the functionality provided by a service to sets of objects that implement the service.” [Saulpaugh, Col. 2, lines 55-58 (cited 3/31/06 Office Action at p. 3)]. Saulpaugh describes that services register with a look-up service: “Descriptive entries may also be associated with a service. Devices and applications use a process known as discovery to register with the Jini network. Once registered, the device or application places itself in the look-up service.” [Saulpaugh, Col. 2, lines 59-62].

However, in the description of the “Jini” architecture, there is no specific discussion how a user or client can access these services, or what happens in the look-up service is not accessible. Thus, the office action concedes Saulpaugh is deficient and fails to teach “the determining means for determining whether said look-up service means can search the look-up service.” [3/31/06 Office Action at p. 3]. As should be self-evident, this also means that Saulpaugh does not teach, disclose or suggest “transmission request notification means for issuing, if said determining means determines that said look-up service search means cannot search the look-up service, a transmission request notification to the service provider in the network via the network in order to request the service provider to transmit a service object” and “second acquisition means for acquiring a desired service object transmitted from the service provider without involvement of the look-up service, the service object being transmitted from the service provider responsive to the transmission request notification issued by said transmission request notification means” as recited in Applicant’s claim 1. Thus, the primary reference, Saulpaugh, is only alleged to disclose the first claim element relating to a look-up service and is admitted not

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to teach, disclose or suggest any of the remaining four claim elements recited in the body of Applicant's claim 1.

**2. Sengodan Does Not Mention A Look-Up Service, And Cannot Disclose The "Determining Means," "First Acquisition Means," "Transmission Request Notification Means," And "Second Acquisition Means" Of Applicant's Claim 1**

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The office action relies upon Sengodan, which is directed to a method and apparatus for providing resource discovery using multicast scope. Sengodan discloses that a resource discovery is provided by sending a first request message and then analyzing whether a responsive confirmation message is received. [Sengodan, Col. 3, lines 55-58 (cited by the office action)]. If such a responsive confirmation message is not received, a second request message is sent having a second selected scope greater than the scope of the first request message. [Sengodan, Col. 3, lines 58-62 (cited by the office action)].

The office action states that Sengodan is "analogous art." Applicants note that Sengodan is classified in class 370, subclass 238. This classification is for flow control of data transmission through a network by least cost or minimum delay routing to control or prevent data flow congestion in multiplex communications. In contrast, the present application is classified in class 709, subclass 219, which is for multicomputer data transferring to access of data from a remote server. It is improper to cite non-analogous art in a Section 103(a) rejection. See MPEP § 2141.01(a). Withdrawal on this basis is requested.

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To the extent that the office action continues to believe that Sengodan is analogous art, a clear statement indicating (1) whether Sengodan is believed to be within the present inventors' field of endeavor, (2) what is the particular problem with which the Applicants were involved that Sengodan is believed to be reasonably pertinent to. See In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1061 (Fed. Cir. 1992).

In any case, even if Sengodan could properly be consider analogous art, it fails to alleviate the deficiencies in the primary reference. The office action refers to the disclosure of Sengodan at col. 6, lines 10-15, which describes feedback mechanisms for determining when the second request message should be sent:

"A feedback mechanism is provided wherein the resources can feedback information such as hop count, bandwidth, etc., back to the Discoverer. Such a feedback mechanism may be employed by the Discoverer in determining whether the scope may be increased for subsequent request messages."

This feedback mechanism is intended to avoid propagation of a duplicate request message from a node receiving the request message. For example, a threshold hop count of the number of nodes in a multicast tree that the request message propagates may be compared with the scope, and a response to the request message is prevent when the scope is greater than the threshold hop count, but its permitted when the scope is not greater than the threshold hop count. [Sengodan, Col. 4, lines 15-33].

Entirely omitted from Sengodan's disclosure is any discussion, mention or consideration of a look-up service. Accordingly, Sengodan – like Saulpaugh –

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necessarily fails to teach, disclose or suggest at least the following claim elements recited in Applicants' claim 1:

- "determining means for determining whether said look-up service search means can search the look-up service";
  - "first acquisition means for acquiring, if said determining means determines that said look-up service search means can search the look-up service, a desired service object transmitted from the searched look-up service by checking whether the desired service object is registered in the searched look-up service";
  - "transmission request notification means for issuing, if said determining means determines that said look-up service search means cannot search the look-up service, a transmission request notification to the service provider in the network via the network in order to request the service provider to transmit a service object"; and
  - "second acquisition means for acquiring a desired service object transmitted from the service provider without involvement of the look-up service, the service object being transmitted from the service provider responsive to the transmission request notification issued by said transmission request notification means."
3. Waldo Is Not Alleged By The Office Action To Disclose The "Determining Means," "First Acquisition Means," "Transmission Request Notification Means," And "Second Acquisition Means" Of Applicant's Claim 1

Waldo is directed to dynamic lookup service in a distributed system. The Office Action asserts that Waldo teaches the invocation of error-handling exception handlers to perform selected error recovery operations in cases where an error condition arises with respect to locating an appropriate stub. [See 3/31/06 Office Action at p. 7].

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The office action alleges this disclosure is found in Waldo's Figure 4 and in the text at page 7, lines 25-27. Without commenting on those assertions, Applicants note that the office action has not alleged that Waldo alleviates the above-described deficiencies in Saulpaugh and Sengodan. Applicants own review of Waldo finds that it too fails to teach, disclose or suggest the above-described deficiencies.

Lastly, the office action argues that "one of ordinary skills [sic] in the art would have known that the error-handling procedures are inherently present in any operable system related to computer network art." [3/31/06 Office Action at p. 6]. Such an assertion of inherency is proper only in limited circumstances where the allegedly "inherent characteristic necessarily flows from the teachings of the applied prior art." See Ex parte Levy, 17 U.S.P.Q. 2d 1461, 1464 (Bd. Pat. App. & Intf. 1990), MPEP § 2112, pp. 2100-55 (8<sup>th</sup> Ed., Rev. 2); see also In re Robertson, 169 F.3d 743, 745, 49 U.S.P.Q. 2d 1949, 1950-51 (Fed. Cir. 1999), MPEP § 2112, pp. 2100-55 (8<sup>th</sup> Ed., Rev. 2). To the extent the office action continues to rely on a theory of inherency, Applicants respectfully request a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the cited references.

Accordingly, as Applicants cannot find the "determining means," "first acquisition means," "transmission request notification means," and "second acquisition means" of Applicant's claim 1 in Saulpaugh, Sengodan or Waldo, at least independent claims 1, 9, 10, 18 and 19, and their dependent claims 2-8, and 11-17 are respectfully

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asserted to be in condition for allowance for the reasons stated above and similar reasons. Reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) is respectfully requested.

Applicants have chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Likewise, Applicants have chosen not to swear behind Saulpaugh, Sengodan and Waldo, which were cited by the office action, at this time. Applicant, however, reserves the right, as provided by 37 C.F.R. § 1.131, to do so in the future as appropriate.

Finally, Applicants have not specifically addressed the rejections of the dependent claims. Applicants respectfully submit that the independent claims, from which they depend, are in condition for allowance as set forth above. Accordingly, the dependent claims also are in condition for allowance. Applicant, however, reserves the right to address such rejections of the dependent claims in the future as appropriate.



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### CONCLUSION

For the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 1232-4778.

Respectfully submitted,  
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Dated: June 29, 2006By: 

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**CONCLUSION**

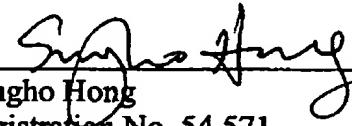
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